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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/656,013	09/07/2000	Russel Dale Cole	SP1042	2278

7590 02/01/2002  
Joseph H McGlynn  
6111 Saddle Horn Dr  
Fairfax, VA 22030

EXAMINER

HEWITT, JAMES M

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 02/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/656,013

Applicant(s)

COLE, RUSSELL

Examiner

James M Hewitt

Art Unit

3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to because in Figure 3a, midholders 25 are shown as if they rest atop picture 13, as opposed to retain the picture as the specification describes; in Figure 3b, magnetic layer 31 is not depicted. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 4 and 7 are objected to because of the following informalities: in line 1 of claims 4 and 7, "a" should be inserted before "holder". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 line 4, "the surface" should be "a surface".

In claim 1 lines 7-9, it is unclear how the third layer, being a single layer, forms a pocket. And, if this layer forms a pocket, why is the pocket said to be positioned between said layer and the first layer? Also, it is apparent that the pocket should not be said to be positioned between the first and third layers, but instead formed by or between the first and third layers.

In claim 2 lines 2-3, the phrase "with the pocket...the triangles" should be changed to ", and the pocket being open at the hypotenuse side edge of the triangles." The claim should explain also that the layers or the edges thereof are aligned to form the pocket at the hypotenuse side edge of each of the triangles.

In claim 3 line 2, "said third transparent material layer" should be changed to "said third layer" to have proper antecedent basis.

In claim 4, it is unclear how the corner receiving pocket relates structurally to the holder and/or the first and second layers of the holder.

In claim 6 line 1, the preamble should be "The combination of a holder and an object with corner edges".

In claim 6 line 2, the phrase "said third and fourth transparent material layers" should be replaced with "said at least one layer being two layers which".

In claim 7 lines 7-8, it is unclear how a single layer can form a pocket, and how the corner receiving pocket relates structurally to the holder and/or the first and second layers of the holder.

In claim 7 lines 9-10, it is unclear how the object is structurally tied to the pocket.



***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engel (US 2,068,909).

Regarding claim 1, Engel discloses a holder for an object comprising: a holder (see figures 5 and 6) having at least three layers, the first layer (30) having a non-slip surface to engage and bear against the surface of the object (5) to be held, the second layer (10) providing a fastening means, and the third layer (20) consisting of at least one layer of a transparent material thus forming a planar object receiving pocket between the third layer and first layer of the holder.

Engel discloses the claimed invention except that the second layer includes a magnetic material. Engel's second layer instead includes an adhesive material. It would have been an obvious matter of design choice to modify Engel with a second layer having magnetic material in place of adhesive since applicant has not disclosed that employing a magnetic material solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with an adhesive material.

With respect to claim 2, wherein each of the three layers are generally triangularly shaped with the pocket being open at the hypotenuse side edge of the triangles.

With respect to claim 3, wherein the third transparent material is a clear plastic material.

With respect to claim 4, refer to the rejection of claim 1.

With respect to claim 5, wherein there are at least two substantially identical holders spaced from each other and adapted to engage a different corner of the same planar object to be held.

With respect to claim 6, the third layer includes two layers of transparent material (see figures 5 and 6).

With respect to claim 7, refer to the rejection of claim 1.

With respect to claim 8, refer to the rejection of claim 5.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M Hewitt whose telephone number is 703-305-0552. The examiner can normally be reached on M-F, 930am-600pm.

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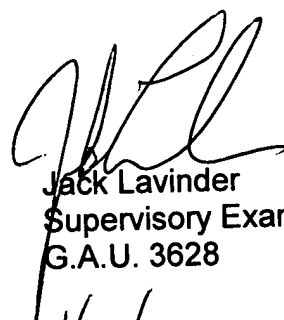
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597/8 for regular communications and 703-308-3687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1020.

jmh

jmh

January 28, 2002

  
Jack Lavinder  
Supervisory Examiner  
G.A.U. 3628  
1/28/02